

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
NORTHEASTERN DIVISION

NORMAN LEE TOLER,

Plaintiff(s),

vs.

TIM LEOPOLD, et al.,

Defendant(s).

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Case No. 2:05CV82 JCH

ORDER

This matter is before the Court on Plaintiff's Motion for Fees and Costs, filed May 7, 2008. (Doc. No. 137). In his motion, Plaintiff asserts his attorneys expended over 314 hours on his case, and requests a total of \$82,373.00 in fees. (Id., ¶ 4).¹ Plaintiff further requests an award of \$2,328.76 in costs. (Id., ¶¶ 6-7).

In their response, Defendants do not dispute the number of hours claimed by Plaintiff. (Doc. No. 138). Rather, Defendants assert only that the fees Plaintiff may recover are limited by the Prison Litigation Reform Act ("PLRA"), to an hourly rate not greater than 150 percent of the hourly rate set out in 18 U.S.C. §3006A. (Id., citing 42 U.S.C. §1997e(d)(3)). Defendants thus request that the Court reduce Plaintiff's claimed fees to no more than \$28,278.00, the maximum allowable under the PLRA. (Id.).² In his reply, Plaintiff concedes the hourly rate for his court-appointed counsel is

¹ Specifically, Plaintiff requests payment for 170.5 hours on behalf of attorney Heidi Kuns Durr, at her customary rate of \$275.00 per hour, and 143.7 hours on behalf of attorney Nathan Plumb, at his customary rate of \$246.94 per hour. (Declaration of Heidi Kuns Durr, attached to Plaintiff's Motion as Exhibit A).

² Defendants do not oppose Plaintiff's request for \$2,328.76 in costs.

limited to \$90.00 per hour, and thus requests an award of attorneys' fees in the amount of \$28,278.00. (Doc. No. 139).

Upon consideration, the Court will grant Plaintiff's revised Motion for Fees and Costs, and order Defendants to pay Twenty Eight Thousand Two Hundred Seventy Eight Dollars (\$28,278.00) in attorneys' fees, and Two Thousand Three Hundred Twenty Eight Dollars and Seventy Six Cents (\$2,328.76) in costs.

Accordingly,

IT IS HEREBY ORDERED that Plaintiff's Motion for Fees and Costs (Doc. No. 137) is **GRANTED** in part, and Defendants are ordered to pay Thirty Thousand Six Hundred Six Dollars and Seventy Six Cents (\$30,606.76) in fees and costs.

Dated this 21st day of May, 2008.

/s/ Jean C. Hamilton
UNITED STATES DISTRICT JUDGE